

Wisconsin River Rail Transit Commission

X-Commission Mtg – Friday, 04 Dec. 2009 @ 10am • Dane Co. Hwy, 2302 Fish Hatchery Rd, Madison, WI

1. Karl Nilson, Chair, called the meeting to order at 10:00 a.m.

2. Commissioners present for all or part of the meeting:

| | | | |
|----------|---|----------------|---|
| Crawford | Tom Cornford | | x |
| | Rocky Rocksvold | | x |
| | Vacant | | |
| Dane | Gene Gray | Treasurer | x |
| | Jim Haefs-Fleming | | x |
| | Forrest Van Schwartz | Advocate | x |
| Grant | DuWayne Carlin | | |
| | Margaret Ruf <i>Arrived at 10:04</i> | | x |
| | Robert Scallon | 2nd Vice Chair | x |
| Iowa | Charles Anderson <i>Arrived at 10:04</i> | | x |
| | Gerald Dorscheid | Vice Treasurer | x |
| | Joe Thomas | | |

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| Rock | Ben Coopman | Alternate | |
| | Katie Kuznacic | | |
| | Alan Sweeney | Secretary | x |
| | Terry Thomas | | |
| Sauk | Joel Gaalswijk | | |
| | Rob Sinklair | | |
| | Frederick Halfen | | |
| | Larry Volz | Vice Chair | x |
| Walworth | Jerry Grant | | |
| | Richard Kuhnke | | |
| | Allan Polyock | | |
| Waukesha | Karl Nilson | Chair | x |
| | Richard Manke | | |
| | Fritz Ruf | | |

Others present for all or part of the meeting:

Amy Seeboth (SWWRPC / WRRTC Administrator); Frank Huntington & Roger Larson (WisDOT); Virgil Kasper (Pink Lady RTC); Ken Lucht (WSOR); Harvey Bastian (Richland County); Gary Kershner (Richland Center)

3. Motion accepting Seeboth's certification of Public Notice. Sweeney / Dorscheid / passed unanimously.

4. Motion accepting the Agenda, prepared by Seeboth. Dorscheid / Volz / passed unanimously.

5. Motion approving the draft Nov. Minutes. Nilson noted a type on item 14, "tricky" - Scallon / Cornford / passed unanimously.

6. Public Comment – Harvey Bastian introduced himself as a volunteer working for Richland County Economic Development. He is looking at feasibility of reestablishing the rail spur from Lone Rock to Richland Center. This initiative was spurred when Ken Lucht spoke with Meegan Thompson, the Richland County EDC Director, earlier this year. Bastian is surveying local businesses right now. He has also met with Dennis Leong (WisDOT) and Ken Lucht (WSOR) and spoke with Amy Seeboth (SWWRPC). The corridor is currently in rails to trails approximately to County O. The process has been pretty low key so far, without much public input or announcements yet. Bastian said it seems that there is interest so far among the dairy businesses he has interviewed. Lucht asked whether there still some WRRTC funds dedicated to Richland County (when the County dispensed they left a large sum of funds (apprx. \$99,000) for the Commission). Others believed that a couple of years ago, the Commission decided to fold this into Commission general funds). The Commission requested that Seeboth look into this and provide them with an explanation.

7. Correspondence & Communications – Seeboth shared information she received in the mail- a declaratory order regarding the land WisDOT recently purchased in Janesville. Sweeney requested that a copy of the letter be sent to him for his records.

8. Wisconsin & Southern Railroad's Report on Operations – Ken Lucht, WSOR, reported on the following:

- *Monthly Maintenance Activities* – Daily track inspections have continued as scheduled. WSOR continues to do them on all main lines. Lucht will bring a synopsis of production for 2009, to the January meeting to provide the Commissioners with an idea of how many ties, welded rail, tons of ballast were installed, etc.
- *2009 Capital Projects*– Lucht reported that there was nothing new to report. WSOR is making progress on finalizing the grant agreement with WisDOT on the Madison welded rail project. They expect that around the first of the year they will make a purchase order on this welded rail. They are moving forward with WisDOT on several grant agreements for awards that WSOR received.
- *2010 Capital Projects* – WSOR does not have these solidified yet. The applications are due on February 1st, and they are hoping that by July 1st the award announcements will be made. Lucht will bring a more concrete synopsis of WSOR's plans to the February meeting.
- *Business Development* – WSOR has brought on 17 new customers in this past year. This is a combination of new direct shipping on the line, as well as trans-loading. WSOR had to make adaptations to their infrastructure in the North Milwaukee Yard to accommodate the needs of these new businesses. MoreAgra in Zenda just came online last month as a direct shipper. UW Madison is another big project that they are working on, switching to biomass. So far, UW-Madison is looking at 2-3 satellite sites for originating the biomass. The University would like the agriculture community to step-up and provide this, rather than the University making those investments themselves. The UW is not willing, however, to commit to the long-term contracts that many of the farmers need to make the investments themselves.
- *Other Continuing Issues / Topics*– Van Schwartz brought up a recent cover of the Isthmus, a Madison-based publication, where a lady is standing on WSOR tracks. Haefs-Flemming said he met with the author of this article to discuss this matter.
- Finally, Lucht added that WSOR just mailed out calendars, and requested that Commissioners let him know if they didn't receive one or if they know of any changed addresses that need to be updated.

9. Letter of support to State Legislation Delegation on WSOR's Federal Stimulus Projects – Ken Lucht, WSOR

Lucht reported that earlier this year, the State requested shovel-ready projects for stimulus funding, but none of the States stimulus funds were allocated for rail projects (they were dedicated for a number of similar projects (harbors, roads, etc)), and the rail meets the federal requirements for stimulus funds. WSOR has been asked by some State representatives to work on this issue, seeing if the State will fund some shovel-ready rail projects with stimulus funds. Lucht handed out three informational pieces on this topic. WSOR is requesting that WRRTC shows their support for this effort, or for the potential of a next round of stimulus funding from the Federal Government. WSOR has prioritized three areas in dire need of upgrade and are shovel-ready: 1) Whitewater to Madison (45 miles), Slinger to N. Milwaukee (24.2 miles), and Brodhead to Avalon (21.5 miles). Some benefits of these projects, include: Decrease fuel usage by 1,490 gallons per day or 543,000 gallons annually, increase mpg by 200%, 100+ new jobs, \$12 million in annual highway maintenance savings, 60,000 ties & 85,000 tons of rock ballast purchased in Wisconsin.

- **Motion that the Commission supports all efforts of WSOR to attract federal stimulus funds to southern Wisconsin's railroad system, starting with a letter of support – Van Schwartz / Sweeney – passed unanimously**

The Commission recessed for a 10-minute break at 11:00

10. Removal of CTH M Bridge over former CNW Tracks in Oregon, WI– Ken Lucht, WSOR

All three Dane County WRRTC Commissioners had a meeting with Dane County to learn more about this topic. The bridge is not a done deal, the County is also looking at an at-grade crossing. Both Fitchburg and Oregon Mayors are very in support of no at-grade crossing. The Commissioners did get a commitment from the County that they will be kept informed as decisions move ahead. Van Schwartz also brought this to the attention of the OCR.

- 11. WRTC Financial Report** – Jim Matzinger, Dane County CPA / WRTC Accountant was unable to attend. He provided copies of the treasurer’s report prior to the meeting. The Commission noted receipt of the report, and will discuss the report at January’s meeting.
- 12. WRTC Administrator’s Report** – Amy Seebth, SWWRPC Transportation Planner circulated copies of the November usage report for the Commission’s website www.wrrtc.org . She had no report.
- 13. WisDOT Update** – Frank Huntington from WisDOT provided an update on the following: The agreement for Madison to Milton project is signed by all parties. They are coming close to having the Monroe to Janesville agreement complete. Badger ammunition is completed.
- 14. WRTC and Badger Ammunition Land Purchase** – Huntington reported that throughout this transition on the Badger Ammunition line, there has been a great deal of discussion about how this land will be used. In the next several weeks WisDOT wants to have a joint meeting to discuss this topic. Huntington asked what is the interest of WRTC in this issue (do they want a Rails-to-Trails?). Van Schwartz volunteered to be the Commissions Dane County Liaison in this effort. Virgil Kasper said that the Pink Lady will not want to covert that line to a trail until after that Commission has had a chance to see and digest the Merrimac Bridge Study. Lucht agreed and noted that he hoped this conversation will be done broadly, to discuss the future of rail as a whole in the region. The Commission requested that this be made an agenda item for next month (“Rail Service Issues to Sauk County”).
- 15. Lease with Lamar Advertising-** The Commission received a lease renewal form from Lamar Advertising for some property in Illinois. At the November meeting, the Commission requested that Eileen Brownlee (WRTC Legal Counsel) review the lease. Brownlee did so, and provided the following opinion, “...Under no circumstances would I recommend it to the Commission. First, for the amount of money offered, the Commission is essentially allowing Lamar to put up any kind of sign it wants, agreeing to indemnify Lamar for any breach (paragraph 10) and, most importantly, giving Lamar a right of first refusal on a perpetual easement (for less than \$3,000) if the Commission "transfers any interest" in the property on which the sign is located (paragraph 11). Presumably, this would include any lease or operating agreement with WSOR. Totally apart from the fact that we don't do perpetual easements on the rail corridor, the price is ridiculous.”
 - **A motion was made to refuse the lease offer provided by Lamar** – *Van Schwartz / Sweeney – Passed Unanimously*
- 16. Jefferson County RTC Membership** –The Commission would like to continue to communicate with Jefferson County about joining the RTC. Seebth drafted a letter to Jefferson County regarding this issue and Van Schwartz, Lucht and Sweeney reviewed the letter. Seebth passed a copy out to the Commissioners for further review. The Commissioners would like this item to be placed on the January agenda for further discussion. If the Commission has not heard back from Jefferson County by the time of that meeting, they will discuss their next steps then.
 - **A motion was made to send this letter to the County, as well as to send the Jefferson County Clerk notices of the WRTC Meeting.** Scallon / Sweeney – passed unanimously.
- 17. WRTC D&O Insurance with Richgels-Schaefer Agency Inc.** Seebth reminded the Commission that this issue came up per Commissioner request. The Commission has wondered whether they need their own Directors & Officers insurance. Seebth obtained a quote on such a policy from Richgels-Schaefer Agency Inc. Brownelee (WRTC Legal Counsel) advised that D&O Policies can be tricky because there can be many gaps in the Policy, but that if Commissioners are not yet covered by their individual County Policies, that WRTC may want to acquire D&O Insurance on their own. The Commissioners were to talk with their County Corp. Counsel about whether they were each already covered under their own County insurance for their actions on the WRTC. Waukesha, Walworth, Rock, and Dane County each reported that their Corp. Counsel believed that the WRTC work was already covered. At November’s meeting, the Commission requested that Sauk, Grant, and Crawford look deeper into the issue and then the topic will be discussed at next month’s meeting. Sauk County, after further exploration, found that they were indeed covered under their County Insurance. The Commissioners agreed to not purchase D&O Insurance at this time, and to close this topic.
- 18. OCR Rule Updates-** Seebth received notice that the Office on the Commission of Railroads is in the process of updating their Administrative Rules and would like public input. Seebth provided each of the Commissioners with a copy of the current OCR Rules and the project Scope Statement. The OCR is holding two public meetings on this topic- one is Wed. January 20th @ 10am, another is Wed. January 27th @ 1pm. Both will be held at Pecatonica River

Conference Room Basement, PSC Building, 610 N Whitney Way, Madison, WI 53705. The Commission requested that this topic be placed on the Jan. agenda.

- 19. Headings Permit Crossing Request, Town of Muscoda** – The Commission received a request for a private crossing permit in the Town of Muscoda (for the Defabbio family). The property in question had recently sold, and the prior owners (the Headings) had a private crossing permit from 1992. The Title Company used for the recent sale had informed the RTC that this private crossing, granted to the Headings, would now like to be a shared private crossing (with the neighbors, the Eckelberries). Gary Kershner, the Defabbio's real estate agent attended the Commission meeting to represent the property owners. The Commissioners expressed concern that the crossing may already be used illegally if it is being shared. They also asked whether it was likely that the area might subdivide, further turning the private crossing into a public crossing. Lucht requested more information on alternative access points. Lucht said that he believed WSOR had no probable granting the permit to the Defabbio's, as long it was up to current WSOR standards, he said he would provide the Defabbio's with a template of WSOR's private crossing agreement and plan. The Commission requested that this item be placed on January's agenda, and that Seeboth provide an Arial photograph of the properties and crossing in question, as well as any local zoning regulation affecting this property.
- 20. Motion adjourning the meeting at 11:53 p.m.** - *Volz / Cornford - passed unanimously.*